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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Belgium*, Bulgaria*, Canada, Czech Republic*, Denmark, El Salvador, Finland*, Germany, Hungary*, Iceland*, Israel*, Netherlands*, Nicaragua*, Norway*, Romania*, San Marino*, Slovenia*, Sweden*, the former Yugoslav Republic of Macedonia*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

1998/... Situation of human rights in Cuba

The Commission on Human Rights,

Recalling all its past resolutions on this subject, especially resolution 1992/61 and its resolution 1997/62 of 16 April 1997,

Recalling also General Assembly resolution 52/143 of 12 December 1997 regarding the situation of human rights in Cuba,

Reaffirming the universality of the obligation that all Member States have to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Considering the report on the situation of human rights in Cuba submitted to the Commission by the Special Rapporteur on the situation of human rights in Cuba (E/CN.4/1998/69),

Expressing its concern at continued violations of human rights and fundamental freedoms in Cuba such as freedom of thought, opinion and expression, assembly and association and rights associated with the administration of justice,

1. Welcomes the recent release of a significant number of political prisoners in Cuba;

2. Also welcomes the recent increased tolerance granted to religious institutions for their activities and positive steps in the development of religious freedom in Cuba;

3. Commends the Special Rapporteur for his report and his efforts to carry out his mandate concerning the situation of human rights in Cuba;

4. Calls upon the Government of Cuba to permit the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba;

5. Expresses particular concern that the Government of Cuba has failed to carry out its obligation to cooperate with the Commission on Human Rights;

6. Calls upon the Government of Cuba to consider acceding to human rights instruments to which it is not yet a party;

7. Regrets profoundly the numerous violations of human rights and fundamental freedoms described in the report of the Special Rapporteur, and urges the Government of Cuba to ensure freedom of expression and assembly and the freedom to demonstrate peacefully, including by allowing political parties and non-governmental organizations to function freely in the country and by reforming legislation in that area;

8. Calls upon the Government of Cuba to carry out the recommendations contained in the report of the Special Rapporteur to bring its observance of human rights and fundamental freedoms into conformity with international law and applicable human rights instruments, and to end all violations of human rights including, in particular, the detention and imprisonment as well as harassment of and threats against human rights defenders and others who are

engaged in the peaceful exercise of their rights, and to grant access to the prisons by non-governmental humanitarian organizations and international humanitarian agencies;

9. Calls especially upon the Government of Cuba to release the numerous persons detained for activities of a political nature, including those specifically mentioned in the report of the Special Rapporteur who suffer from inadequate medical care while imprisoned or whose rights as journalists or jurists are impeded or denied, and to reintegrate them into civil society, permitting them to carry out their peaceful activities;

10. Calls upon the Government of Cuba to ensure that workers' rights are safeguarded, including through independent and generalized collective-bargaining systems;

11. Decides to extend the mandate of the Special Rapporteur for one year, and requests him to maintain direct contacts with the Government and citizens of Cuba as mandated in past resolutions of the Commission and requests him also to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session on the result of his endeavours pursuant to the present resolution;

12. Requests that the existing mechanisms of the Commission on Human Rights continue giving attention to the situation of human rights in Cuba;

13. Invites the Special Rapporteur and the existing thematic mechanisms of the Commission to cooperate fully and exchange information and findings on the situation of human rights in Cuba;

14. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur;

15. Invites the Government of Cuba to consider the possibility of requesting the establishment of a programme of technical cooperation;

16. Decides to consider this question at its fifty-fifth session under the same agenda item.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Australia*, Austria, Belgium*, Bulgaria*, Canada, Chile, Cyprus*, Czech Republic, Denmark, El Salvador, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Madagascar, Nepal, Netherlands*, New Zealand*, Norway*, Poland, Portugal*, Romania*, San Marino*, Senegal, Slovakia*, Slovenia*, South Africa, Spain*, Sweden*, Switzerland*, The Former Yugoslav Republic of Macedonia*, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela: draft resolution

1998/... Extrajudicial, summary or arbitrary executions

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, and the relevant provisions of the International Covenant on Civil and Political Rights,

Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions contained in Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful of General Assembly resolutions on the subject of extrajudicial, summary or arbitrary executions, of which the latest is resolution 51/92 of 12 December 1996, in which the General Assembly requested the Special Rapporteur to submit at its fifty-third session an interim report on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat that phenomenon,

Recalling Economic and Social Council resolution 1984/50 of 25 May 1984 and the Safeguards guaranteeing protection of the rights of those facing the death penalty annexed thereto and Council resolution 1989/64 of 24 May 1989 on their implementation, as well as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

Deeply alarmed at the persistence, on a large scale, of extrajudicial, summary or arbitrary executions in all parts of the world,

Dismayed that in a number of countries impunity, the negation of justice, continues to prevail and often remains the main cause of the continued occurrence of extrajudicial, summary or arbitrary executions in those countries,

Convinced of the need for effective action to combat and to eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent a flagrant violation of the fundamental right to life,

1. Strongly condemns once again all the extrajudicial, summary or arbitrary executions that continue to take place throughout the world;

2. Demands that all Governments ensure that the practice of extrajudicial, summary or arbitrary executions be brought to an end and that they take effective action to combat and eliminate the phenomenon;

3. Notes that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions;

4. Reiterates the obligation of all Governments to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, to grant adequate compensation to the victims or their families and to adopt all necessary measures to prevent the recurrence of such executions;

5. Calls upon the Governments of all States in which the death penalty has not been abolished to comply with their obligations under relevant provisions of international human rights instruments, keeping in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64;

6. Takes note of the report of the Special Rapporteur (E/CN.4/1998/68 and Add.1-3), including the attention given therein to various aspects and situations of violations of the right to life as well as the recommendations made after his visits to particular countries;

7. Commends the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions and encourages him to continue, within the framework of his mandate, to collect information from all concerned and to seek the views and comments of Governments in order to be able to respond effectively to reliable information that comes before him and to follow up on communications and country visits;

8. Requests the Special Rapporteur, in carrying out his mandate:

(a) To continue to examine situations of extrajudicial, summary or arbitrary executions and to submit his findings on an annual basis, together with conclusions and recommendations, to the Commission on Human Rights, as well as such other reports as the Special Rapporteur deems necessary in order to keep the Commission informed about serious situations of extrajudicial, summary or arbitrary executions that warrant its immediate attention;

(b) To respond effectively to information which comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or seriously threatened or when such an execution has occurred;

(c) To enhance further his dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries;

(d) To continue to pay special attention to extrajudicial, summary or arbitrary executions of children and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations or against persons belonging to minorities;

(e) To pay special attention to extrajudicial, summary or arbitrary executions where the victims are individuals carrying out peaceful activities in defence of human rights and fundamental freedoms;

(f) To continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto;

(g) To apply a gender perspective in his work;

9. Urges the Special Rapporteur to draw to the attention of the United Nations High Commissioner for Human Rights such situations of extrajudicial, summary or arbitrary executions as are of particularly serious concern to him or where early action might prevent further deterioration;

10. Welcomes the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights and encourages the Special Rapporteur to continue efforts in this regard;

11. Urges Governments to undertake all necessary and possible measures to prevent loss of life during situations of public demonstrations, internal and communal violence, disturbances, tension and public emergency or armed conflicts, and to ensure that the police and security forces receive thorough training in human rights matters, in particular with regard to restrictions on the use of force and firearms in the discharge of their functions;

12. Appeals to all Governments to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions in places of detention conform to the Standard Minimum Rules for the Treatment of Prisoners and, where applicable, to the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977 in relation to the treatment of prisoners in armed conflicts, as well as to other pertinent international instruments;

13. Strongly urges all Governments:

(a) To cooperate with and assist the Special Rapporteur so that his mandate may be carried out effectively, including, where appropriate, by issuing invitations to the Special Rapporteur when he so requests, in keeping with the usual terms of reference for missions by special rapporteurs of the Commission on Human Rights;

(b) To respond to the communications transmitted to them by the Special Rapporteur;

14. Expresses its appreciation to those Governments that have invited the Special Rapporteur to visit their countries, asks them to examine carefully the recommendations made by him, invites them to report to the Special Rapporteur on actions taken on those recommendations, and requests other Governments, including those mentioned in the report of the Special Rapporteur, to cooperate in a similar way;

15. Expresses its concern that a number of Governments mentioned in the report of the Special Rapporteur have not replied to specific allegations and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur;

16. Encourages Governments, United Nations bodies and organs, the specialized agencies and intergovernmental and non-governmental organizations, as appropriate, to initiate, coordinate or support programmes designed to train and educate military forces, law enforcement officers and government officials, as well as members of the United Nations peacekeeping or observer missions, on human rights and humanitarian law issues connected with their work, and appeals to the international community to support endeavours to that end;

17. Requests the Secretary-General to provide the Special Rapporteur, from within the overall budgetary framework of the United Nations, with an adequate and stable level of human, financial and material resources, in order to enable him to carry out his mandate effectively, including through country visits;

18. Also requests the Secretary-General to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to be respected;

19. Further requests the Secretary-General to continue, in close collaboration with the High Commissioner for Human Rights, in conformity with the High Commissioner's mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious human rights violations, such as extrajudicial, summary or arbitrary executions;

20. Decides to extend the mandate of the Special Rapporteur for three years;

21. Decides also to consider the question of extrajudicial, summary or arbitrary executions as a matter of priority at its fifty-fifth session under the same agenda item;

22. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/... of .. April 1998, endorses the Commission's decision to extend for three years the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission's request to the Secretary-General to provide the Special Rapporteur, from within the overall budgetary framework of the United Nations, with an adequate and stable level of human, financial and material resources in order to enable him to carry out his mandate effectively, including through country visits."